

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-CV-256-D(1)

RUBY ANN LAPEER,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER

On June 30, 2009, Magistrate Judge Gates issued a Memorandum and Recommendation (“M&R”). In that M&R, Judge Gates recommended that plaintiff’s motion for judgment on the pleadings be granted, defendant’s motion for judgment on the pleadings be denied, and defendant’s final decision denying the request for benefits be reversed and remanded to permit the Administrative Law Judge to reconsider the credibility of the plaintiff’s allegations of pain and other limitations and to specify reasons for the ALJ’s credibility determination. Neither party filed objections to the M&R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (alteration in original) (emphasis removed) (quotation omitted). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Id. (quotation omitted).

The court has reviewed the M&R, the record, and the briefs. The court is satisfied that there is no clear error on the face of the record. Plaintiff's motion for judgment on the pleadings is GRANTED, defendant's motion for judgment on the pleadings is DENIED, and the action is REMANDED to the Commissioner.

SO ORDERED. This 13 day of August 2009.


JAMES C. DEVER III
United States District Judge